

REMARKS

The Office Action of March 26, 2007 has been carefully considered.

It is noted that claims 1-5, 7-11, 14, 15, 25, 26 and 28-31 are rejected under 31 U.S.C 103(a) over the patent to Markowitz in view of the patent to Tsengas and Darda.

Claims 12, 16, 18, 22 and 24 are rejected under 35 U.S.C. 103(a) over Markowitz in view of Tsengas and Darda, and further in view of the patent to Bartleson.

Claims 38-47 are rejected under 35 U.S.C. 103(a) over Markowitz in view of Darda.

In view of the Examiner's rejection of the claims, applicant has amended claims 1, 15, 38 and 43.

It is respectfully submitted that the claims now on file differ essentially and in an unobvious, highly advantageous manner from the construction disclosed in the references.

Turning now to the references, and particularly to the patent to Markowitz, it can be seen that this patent discloses an interactive game between a pet and an owner.

The patent to Tsegnas discloses an interactive pet toy.

The patent to Drada discloses a toy vehicle with a component for storing energy in response to motion in opposite direction. The Examiner combined these references in determining that claims 1-

5, 7-11, 14, 15, 25, 26 and 28-31 would be unpatentable over such a combination. Applicant submits that it would not be obvious to replace the electronic drive of Markowitz with a mechanical spring drive as taught by Darda. The entire purpose of the Markowitz invention is to provide a radio controlled toy animal which allows the owner of a pet to actively play with his pet by active and continuous control of the toy animal so that the pet chases the toy animal. If one were to replace the electronic drive of Markowitz with the mechanical spring drive of Darda it would not be possible to provide the remote control as disclosed by Markowitz. The remote control relies on the ability to change the amount of power being provided to the drive wheels so that the toy animal can be accelerated or slowed down or stopped. With a drive as taught by Darda, it is not possible to provide such acceleration, stopping and slowing down control. Such finite control of a mechanical spring drive as taught by Darda is not disclosed or taught in any of the references, even if such control of a spring drive is possible. Furthermore, to make the substitution proposed by the Examiner would completely divert from the inventive intent of Markowitz which is to provide a mutual participation by pet owner and pet via the remote controlled toy animal. By providing a spring drive in the toy animal of Markowitz, an interactive mutual participation is no longer possible. Once the owner initiates the spring drive and sets the toy animal in motion, there is no longer any possibility of controlling the toy animal which would permit interactive play with the pet as shown in Figs. 5 and 6 of Markowitz, i.e. moving the toy into and out of a toy house by remote control. Thus, applicant submits that there is no motivation or suggestion or teaching for combining the teachings of Dardas with Markowitz as suggested by the Examiner. Tsengas is merely sited for the prospect of providing an attractant such as catnip for the animal.

Furthermore, none of the references provide any mention of a ballast being provided in the toy animal for adding weight to the drive unit to thereby improve friction between the wheels of the toy animal and the ground on which it is operating to permit better movement of the toy animal.

In view of these considerations, it is respectfully submitted that the rejection of claims 1-5, 7-11, 14, 15, 25, 26, 28-31 under 35 U.S.C. 103(a) over a combination of the above-discussed references is overcome and should be withdrawn.

The patent to Bartleson has also been considered. Applicant submits that this reference adds nothing to the teachings of Markowitz, Tsengus, and Dardas so as to suggest the invention as cited in the independent claims as discussed above. Therefore, it is respectfully submitted that the rejection of claim 12, 16, 18-22 and 24 under 35 U.S.C. 103 (a) is overcome and should be withdrawn.

Additionally , relative to claims 38-47, the argument s presently previously concerning the combinability of Markowitz and Darda apply equally here. As previously stated there is no motivation or suggestion to combine the teaching of these two references as that would completely alter the inventive concept of the primary reference, i.e. Markowitz, and the interactive playtime between the pet and the pet owner. Furthermore, the combination of these two references do not teach a ballast element as recited in the claims presently on file.

In view of these considerations, it is respectfully submitted that the rejection of claims 38-47 under 35 U.S.C 103(a) over a combination of the above-discussed references is overcome and should be withdrawn

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Reconsideration and allowance of the present application is respectfully requested.

Respectfully submitted,

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By 

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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, PO Box 1450 Alexandria, VA 22313-1450, on August 27, 2007.

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